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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

MOVE, INC., a Delaware corporation;
MOVE SALES, INC., a Delaware
corporation; REALSELECT, INC., a
Delaware corporation,

Plaintiffs,

v.

COSTAR GROUP, INC., a Delaware
corporation; JAMES KAMINSKY, an
individual; and DOES 1 through 10,
inclusive,

Defendants.

Case No. 2:24-cv-05607-GW-BFM

**JOINT STIPULATION RE:
DEFENDANTS' EXPEDITED
DISCOVERY UNDER L.R. 37-2**

Judge: Hon. George H. Wu
Magistrate Judge: Hon. Brianna Fuller
Mircheff

Complaint filed: July 2, 2024

1 **I. INTRODUCTORY STATEMENTS**

2 Pursuant to the Court’s minute order dated July 29, 2024 (ECF No. 38) (the
3 “July 29 Order”), the Court’s instructions from the bench on July 29, 2024, and Local
4 Rule 37-2, the parties hereby submit the following joint stipulation concerning
5 Defendants CoStar Group, Inc. (“CoStar”) and James Kaminsky’s (together,
6 “Defendants”) expedited discovery.

7 **A. Plaintiffs’ Introductory Statement**

8 On Sunday, August 4—one, non-business day before the court-ordered
9 deadline for filing objections to discovery requests—Defendants, for the first time,
10 sent discovery requests to Plaintiffs Move, Inc., Move Sales, Inc., and RealSelect,
11 Inc. (collectively, “Move”). By waiting until the eve of the objections deadline to
12 serve their discovery requests, Defendants have not only given Move insufficient
13 time to evaluate the requests, they have also squandered a week during which
14 discovery efforts could have been underway. Defendants’ dilatory tactics, or at
15 minimum lack of diligence, warrant reconsideration of the Court’s order granting
16 expedited discovery.

17 Move has consistently stated no expedited discovery is necessary before the
18 preliminary injunction hearing (ECF No. 31 (Brief Opposing Exp. Discovery);
19 Declaration of Elizabeth Baldrige (“Baldrige Decl.”) ¶ 8)) and does not intend to
20 seek any discovery because it is not necessary and will serve only to cause delay.
21 To the extent the Court permits Defendants to seek discovery despite their delay,
22 Defendants’ current requests should be narrowed significantly. In, in an effort to
23 maintain an expedited schedule and comply with the Court’s order, Move has done
24 its best on an extremely compressed timeline to assess and respond to Defendants’
25 belated discovery requests. Any request for additional time to respond to Move’s
26 objections to the discovery requests or continue the hearing date to accommodate
27 Defendants’ discovery requests should be denied. Granting them any additional time
28 would serve only to reward their improper conduct and result in further delay and

1 prejudice to Move. The remedy for Defendants' delay and lack of diligence should
2 be to limit their ability to seek discovery.

3 Move's positions on Defendant's discovery requests (set forth in Section II,
4 *infra*), as well as additional background on the parties' discovery discussions, are set
5 forth below.

6 **1. Defendants Ignored the July 29 Order, the Local Rules, and Local**
7 **Practice.** One week ago today, the Court granted Defendants' *Ex Parte* Application
8 for Expedited Discovery over Move's objection. ECF No. 38. Among other things,
9 Move objected that Defendants' application failed to identify the specific discovery
10 being sought. ECF No. 31 at 15. In granting Defendants' application, the Court
11 ordered the parties to meet and confer during the week of July 29 to "discuss the
12 issues of what discovery would be requested." Baldrige Decl. Ex. A (Reporter's
13 Transcript ("RT")) 14:1-4. The Court further ordered the parties to file a joint brief
14 regarding any unresolved issues by no later than Monday, August 5. ECF No. 38.
15 The Court explained that the joint filing should be presented in the form of "a regular
16 discovery dispute telling [the Court] what has been asked for, what the opposition
17 is, and a response to the opposition or objection[.]" RT 14:6-9. *See* C.D. Cal. L.R.
18 37-1-3 (setting forth the local rules for raising a discovery dispute with the Court).
19 To maintain an expedited schedule and avoid delay, the Court deviated from its
20 standard procedure of requiring discovery motions to be calendared before the
21 Magistrate Judge and agreed to resolve the initial discovery disputes related to the
22 preliminary injunction. RT 13:6-9. The path forward, as instructed by the Court,
23 was clear.¹

24
25 ¹ The Court also suggested the parties spend some of the additional time attempting
26 to resolve the case, noting that the parties "probably could have agreed to an
27 injunction at this point in time, at least with defendant indicating they are not going
28 to concede any wrongdoing." RT 10:15-20. Following the hearing, consistent with
the Court's suggestion, Move promptly sent Defendants a proposed stipulated
preliminary injunction that was narrowly tailored and did not require Defendants to
admit any wrongdoing. Baldrige Decl. Ex. B (proposed stipulated preliminary
injunction sent within a day of the hearing). Defendants rejected the proposed

1 Instead of timely sending discovery requests, however, Defendants did
2 nothing for four days. Then, on the afternoon of Thursday, August 1, Defendants
3 sent Move a proposed joint stipulation setting forth a discovery schedule under
4 which Defendants' discovery requests would not be served until Monday, August
5 5—the same day the Court ordered the parties to file a joint brief identifying any
6 discovery disputes. Baldrige Decl. ¶ 7, Ex. D; RT 14:6-9. The joint stipulation
7 asked Move to commit to dates for the production of documents and responses to
8 Defendants' interrogatories without sending Move those requests such that Move
9 could understand whether Defendants' proposed timeline was feasible. Baldrige
10 Decl. Ex. D. Defendants also asked Move to commit to a window of time for
11 depositions that covered just 20 days in August—when many people are on
12 vacation—without telling Move which witnesses Defendants would seek to depose.
13 *Id.*

14 After Move responded that Defendants' proposed discovery schedule violated
15 the July 29 Order, the parties met and conferred on Friday, August 2. Baldrige
16 Decl. ¶ 9; Ex. E. During the meet and confer, Move again pointed out that
17 Defendants' proposed discovery timeline did not comply with the Court's
18 instruction, which required the parties to exchange discovery requests, meet and
19 confer about the requests, and file any objections on Monday, August 5. Baldrige
20 Decl. ¶ 10. Move also said it could not agree to deadlines for responding to
21 discovery requests when Defendants had not yet informed Move of the discovery
22 they were seeking. *Id.* In response, Defendants reiterated that they would serve their
23 discovery requests on Monday, August 5 as set forth in their proposed schedule—a
24 proposal that was plainly inconsistent with the Court's instruction, as Move
25 repeatedly pointed out. *Id.* Defendants still provided no information about the
26 specific discovery they were seeking. *Id.*

27 stipulation, refused to make any counter proposal, and instead threatened Move.
28 Baldrige Decl. Ex. C (emails threatening sanctions and "tort" liability for seeking
an injunction in this case).

1 **2. Defendants' Discovery Requests Are Not Tailored to the Narrow**
2 **Scope and Time Frame at Issue.** Defendants not only ignored the Court's clear
3 instruction, waiting until Sunday, August 4 to send Move their written discovery
4 requests and deposition notices, they then sent sweeping requests that far exceed the
5 limited discovery ordered by the Court based on the narrow injunction Move
6 requested. Baldridge Decl. ¶ 11. For example, Defendants request documents
7 relating to *all* trade secret files potentially implicated in Move's Complaint, even
8 though the preliminary injunction request pertains only to three critical files and the
9 employee documents CoStar employee Mr. Kaminsky emailed to his Gmail account
10 on his last day of work at Move. *See, e.g., infra*, Section II, Request for Production
11 Nos. 5, 6. This is an important distinction. Move has not sought to enjoin the
12 development of a product, a transaction, or a business line, and thus the scope of
13 expedited discovery should not be a product, a transaction, or a business line. Move
14 only seeks to enjoin Defendants from use of the trade secret information contained
15 in three critical electronic files that CoStar employee Mr. Kaminsky accessed
16 electronically after leaving Move and Move employee compensation information
17 that Mr. Kaminsky sent to his Gmail account on his last day of work at Move. *See*
18 ECF No. 12. The scope of expedited discovery is thus appropriately framed by those
19 documents. Defendants also request a Federal Rule of Civil Procedure 30(b)(6)
20 deposition on numerous broad topics that go far beyond the subject of the Motion
21 for Preliminary Injunction. Moreover, although Defendants purport to have served
22 ten interrogatories, they in fact have served over twenty interrogatories given the
23 compound nature of their requests.

24 Given the number and scope of Defendants' discovery requests, combined
25 with Defendants' inexplicable delay in serving them, it would be infeasible for Move
26 to respond to all the requests in the short time frame available.

27 **3. Defendants Have Not Been Diligent in Seeking Discovery.**
28 Defendants' lack of diligence in seeking discovery warrants either reconsidering the

1 order granting their request for discovery, or significantly narrowing Defendants'
2 current requests. Courts routinely examine a party's diligence when determining
3 how to control the discovery process. *See, e.g., Zivkovic v. S. California Edison Co.*,
4 302 F.3d 1080, 1087 (9th Cir. 2002) ("If the party seeking the modification [of a
5 scheduling order] was not diligent, the inquiry should end and the motion to modify
6 should not be granted") (citations omitted); *Williams v. James River Group Inc.*, 627
7 F. Supp. 3d 1172, 1178 (D. Nev. 2022) ("A complete failure to engage in the
8 discovery process is antithetical to the diligence requirement") (denying stipulation
9 to extend discovery).

10 Defendants' refusal to reveal their discovery requests until Sunday, August 4
11 can be explained only by either intentional delay or lack of diligence. Defendants
12 should have attached their discovery requests to their July 23 motion seeking
13 expedited discovery. They did not. Defendants should have promptly served their
14 discovery requests after the July 29 hearing. They did not. Defendants should have
15 told Move their discovery requests before the August 2 meet and confer. They did
16 not. Baldrige Decl. ¶ 6. Although it would have still been improper, Defendants
17 should have articulated their discovery requests at the parties' meet and confer on
18 Friday, August 2 (the business day before this brief was due to the Court).
19 Inexplicably, again, they did not. *Id.* at ¶ 10. Defendants did not even identify the
20 names of their deponents at the meet and confer, a disclosure that should have taken
21 minutes and could have been done a few hours after the Court ordered expedited
22 discovery. *Id.* Their repeated refusals to comply with the Court's instruction and
23 resulting delay is the opposite of diligence and should not be rewarded.

24 **B. Defendants' Introductory Statement**

25 Move has, from the outset of this matter, sought to hide the facts and block
26 pre-hearing discovery, and it continues to do so today. First, Move objected to
27 Defendants' proposal that both sides engage in expedited pre-hearing discovery.
28 Second, Move opposed Defendants' *ex parte* application seeking such discovery, an

1 application that this Court granted over such opposition on Monday, July 29. Third,
2 following such hearing, it did nothing regarding setting a schedule for expedited
3 discovery or attempting to meet and confer regarding such discovery for four days,
4 while Defendants were busy drafting interrogatories, requests for production, a
5 30(b)(6) deposition notice, and a stipulation to govern discovery. Shortly after noon
6 on August 1, Defendants' counsel sent Move's counsel a proposed stipulation
7 specifying a schedule for such discovery, including a deadline for the exchange of
8 the parties' respective expedited written discovery requests and scheduling for
9 depositions after document production was substantially complete. (Declaration of
10 Matthew W. Walch ("Walch Decl.") ¶ 8.) In that same email, Defendants requested
11 a meet and confer consistent with this Court's July 29 order. (*Id.* ¶ 8.) Move
12 reluctantly concurred. It did not argue that the meet-and-confer was late; it did not
13 demand specific discovery requests in advance; rather it expressed confusion and
14 said that it would meet if *Defendants* wanted to do so. (*Id.* ¶ 9.) Move's counsel
15 wrote: "I am happy to have a meet and confer today, if *you* think that would be
16 helpful" (*Id.* ¶ 9, Ex. E (emphasis added).) Move then participated in the Court-
17 ordered meet-and-confer on Friday August 2. During that call, Move did not engage
18 in Defendants proposal to discuss the scope of expedited discovery, and Move then
19 stated—incredibly—that it did not expect to seek *any* discovery of its own. (*Id.*
20 ¶ 10.) Today, when it provided this draft filing, Move confirmed it would not seek
21 any expedited discovery of Defendants.

22 Move, a plaintiff claiming trade secret misappropriation, with a pending
23 demand for injunctive relief to protect its purported confidential and critical business
24 information, and the opportunity to determine who has its information and how such
25 information was used, if at all, has decided that on reflection *it does not want to know*
26 *the facts*. The reason is plain. This litigation was filed to gin up adverse press, and
27 Defendants have produced declarations making clear that Move's claims—in
28 particular its allegation that CoStar is using Move trade secrets to compete against

1 Move—are baseless. Move thus seeks to stick its head in the sand with respect to
2 discovery from Defendants, and to fight harder to block the discovery of Move that
3 this Court already granted. That discovery will further underscore that Move’s case
4 was knowingly built on falsehoods, and Move is doing everything it can to make
5 sure it does not proceed.²

6 Move’s fourth gambit is to seek reconsideration of this Court’s July 29 order
7 permitting pre-hearing discovery to proceed, by asking the Court to block or
8 significantly narrow such discovery through this Joint Stipulation. That request
9 should be denied. Move’s core argument is that Defendants have taken too long to
10 formulate precise discovery requests. But this Court set a one week deadline to bring
11 discovery disputes to the Court’s attention, and together the parties are doing just
12 that, in this Joint Stipulation. There is therefore no delay, and certainly no prejudice
13 to Move: its objections are set forth in detail below. Move chides Defendants for
14 meeting-and-conferring on specific topics only four days after the hearing, for
15 preparing a stipulation with specific deadlines that Move failed to prepare or counter,
16 and for working through the weekend to serve every piece of requested discovery in
17 order to comply with the one week deadline. Defendants have ensured the Court-
18 ordered deadline could be met. On its part, Move worked no faster or harder. In
19 fact, Move did nothing. It decided, unlike virtually every plaintiff before it in this
20 position, not to draft or seek any discovery. And it did nothing else, not even
21 preparing or proposing a stipulated timeline for objecting to Defendants’ proposed
22 stipulation setting forth an August 5 deadline for the exchange of initial written
23 discovery requests or any other deadlines for expedited discovery.

24 _____
25 ² This is one of many reasons why Defendants will not agree to the entry of an
26 injunction. Indeed, Move’s puzzling response to the July 29 hearing and Court’s
27 Order—to request that CoStar agree to an injunction but not otherwise engage on
28 discovery—may be a case of ‘filer’s remorse.’ To the extent that Move desires to
bring this lawsuit to an end, CoStar explained that while the sworn declarations of
Mr. Noe and Mr. Kaminsky are proof positive that this lawsuit (and any relief) are
not necessary, CoStar would be willing to provide additional declarations from other
CoStar employees to that same end. Move did not engage on that proposal. (Walch
Decl. ¶ 6.)

1 In short, there is no delay, as evidenced by the filing of this Joint Stipulation.
2 And as the specific expedited discovery prepared by Defendants indicates, that
3 discovery is narrowly tailored. Indeed, the discovery sought aligns with the very
4 topics Defendants identified in their *ex parte* application requesting leave for
5 expedited discovery, namely “the trade secrets claimed by Move, the alleged acts of
6 Mr. Kaminsky, his work for CoStar, how Move has allegedly been harmed, [] the
7 urgency and alleged irreparable nature of any such harm” (Dkt. 21, at 4), “[w]hen
8 precisely Move learned of the alleged improper access by Mr. Kaminsky or device
9 deletion activity, what Move did in response and when, why exactly the information
10 is competitively sensitive, and what basis Move has for claiming that CoStar is or
11 was using Move’s information to compete against Move” (Dkt. 33, at 4). Moreover,
12 Defendants have proposed a reasonable schedule pursuant to which the discovery
13 can be completed well in advance of the hearing scheduled by the Court for
14 September 23, 2024. (Walch Decl. ¶ 13, Ex. M.) Defendants are, as previewed in
15 their *ex parte* application, seeking information that pertains directly to the pending
16 request for an injunction. And Defendants are seeking this discovery in a targeted
17 fashion using only ten interrogatories, ten requests for production and notice for
18 three depositions totaling in the aggregate only ten hours of testimony time. This is
19 on its face both limited and expedited discovery, and—with Move’s co-operation—
20 will proceed apace.

21 Move’s specific gripes show only that it wants to suppress plainly relevant
22 evidence that will undermine its injunction request. To take one example, in their
23 fifth request for documents, Defendants seek information about the steps Move took
24 to protect its alleged trade secrets, a core topic of indisputable relevance: if Move
25 did not itself adequately protect such information, the basis for an injunction is
26 undermined. Yet Move is refusing entirely to provide *any* documents about that
27 topic. Similarly, Move asks the Court to bless its refusal to produce *any* documents
28 about who can and did access the supposedly confidential information (RFP No. 6);

1 about Move’s knowledge of Mr. Kaminsky’s role at CoStar (RFP No.8) (despite
 2 Move’s argument about irreparable harm being built on the baseless claim that
 3 Kaminsky is leading a team competing with Move); or about Move’s claim that
 4 CoStar is building a news product to compete with Move (the supposed predicate
 5 for its injunction-justifying fear that CoStar will misuse its confidential information).
 6 These positions are facially indefensible, and raise a bright red flag regarding the
 7 weakness of Move’s injunction request.

8 Move filed a lawsuit, and sought an injunction, telling this Court that CoStar
 9 is building a rival business based on trade secrets stolen by Mr. Kaminsky. *See, e.g.,*
 10 Compl. ¶ 6 (“CoStar apparently wants to create a rival News & Insights platform for
 11 Homes.com, copying the success of the News & Insights team at Realtor.com.); *id.*
 12 ¶ 7 (“CoStar, through its employee, Mr. Kaminsky, has been brazenly and repeatedly
 13 misappropriating Move’s confidential and trade secret information to give
 14 Homes.com a massive jump start in setting up its new offering.”). That accusation
 15 is false. And Move knew it—multiple senior Move managers met with Mr.
 16 Kaminsky after he left the company and discussed his new job at CoStar—running
 17 a team writing about New York condos. Kaminsky Decl. at ¶ 35 (Dkt. 34-1). Yet
 18 Move filed the lawsuit and sought an injunction anyway. Having obtained the press
 19 coverage it sought, Move would now like the case to go away as quickly as possible.
 20 Certainly, it wants to ensure that Defendants—and the Court—do not confirm in
 21 discovery that the information at issue is nothing close to a secret formula, that Move
 22 did not protect it, that Move sat on its hands for weeks, and that Move’s supposed
 23 need for a preliminary injunction is built on sand. The truth should come out, and
 24 Move’s renewed requests to block or unduly narrow discovery should be rejected.

25 **II. PARTIES’ POSITIONS AS TO SPECIFIC DISCOVERY REQUESTS**

26 **A. Plaintiffs’ General Objections Applicable to All Discovery Requests**

27 Move makes the below objections (“General Objections”), which apply to the
 28 Requests for Production, Interrogatories, and Notices of Deposition (collectively,

1 “Discovery Requests”) in their entirety. Although Move will respond specifically
2 to the Discovery Requests, Definitions, and Instructions (collectively, “Specific
3 Objections”), all responses are made subject to these General Objections and no
4 response should be considered, or is, a waiver of any General Objection. All
5 objections and responses below are based only upon information and materials
6 presently available and specifically known to Move based on Move’s reasonable,
7 good-faith investigation at this time. Move reserves the right to supplement, amend,
8 or otherwise revise these objections and responses.

9 1. The Discovery Requests were untimely served. Defendants ignored the
10 Court’s instruction, the Local Rules, and local practice, and refused to serve their
11 discovery until Sunday, August, 4, 2024, the day before this submission is due to the
12 Court. As a result, Move has had insufficient time either to fully consider or produce
13 the requested information. Given the untimeliness of Defendants’ requests, Move
14 reserves the right to raise additional objections upon further review of the requested
15 discovery.

16 2. Move objects to the Discovery Requests to the extent they seek
17 information from other companies.

18 3. Move objects to the Discovery Requests to the extent that they purport
19 to impose obligations on Move that are broader than and/or inconsistent with those
20 required by the Federal Rules of Civil Procedure, the Local Rules of the United
21 States District Court for the Central District of California, or any other applicable
22 law, rule, or Court order.

23 4. Move objects to Defendants’ demands that it produce documents and
24 respond to their Interrogatories by August 12. Given that Defendants only served
25 their Discovery Requests on August 4, far after they should have, Move requires
26 additional time to assess the requests and determine a reasonable timeline for
27 responding.
28

1 5. Move reserves the right to designate any materials it produces as
2 “CONFIDENTIAL”, “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
3 ONLY” or “OUTSIDE COUNSEL EYES ONLY” under the Confidentiality
4 Protective Order (ECF No. 40), and to utilize the protections and procedures set forth
5 in that Confidentiality Protective Order.

6 6. Move objects to Defendants’ demands to the extent they call for the
7 disclosure of information or documents protected by the attorney client privilege,
8 the attorney work product doctrine, or any other applicable privilege.

9 **B. Defendants’ Responses to Plaintiffs’ General Objections**

10 Defendants’ Written Discovery Requests Were Timely Served. Despite
11 Move’s claims to the contrary, the Court did not set a deadline for the parties’ service
12 of their respective written discovery requests and Move had not specified or
13 requested that such requests be served by any specific deadline in advance of the
14 parties’ meet and confer. Furthermore, Defendants never “refused” to serve their
15 full written discovery requests by any specific date as Plaintiffs never demanded that
16 Defendants serve their discovery by any such date. Rather, after meeting-and-
17 conferring on August 2 regarding the topics of discovery (which had already been
18 set forth in Defendants’ *ex parte* briefing), and Defendants’ proposal as to how such
19 discovery would be taken (*i.e.*, the number of document requests, interrogatories,
20 and depositions) and on what timeline, Defendants affirmatively served their
21 requests on August 4, 2024. (Walch Decl. ¶ 11.)

22 So that the Court has it readily available, the following is the Court’s
23 discussion of the timing for expedited discovery, the parties’ meet and confer and
24 the Court’s request for this joint filing, during the July 29 hearing:

25 Let me do this, it seems to me this is stuff you can talk about, and
26 what I will do is this: I will allow expedited discovery.

27 It can be assuredly granted if both sides agree on what the
28 expedited discovery is.

1 If there is a disagreement as to what the expedited discovery will
2 cover, I will allow the parties to come back to me, and I will resolve
3 that issue.

4 I won't go through the Magistrate Judge because it would take
5 too much time insofar as getting up to speed.

6 So I won't do that, but I will do the initial discovery disputes.

7 After a preliminary injunction phase, then you will be going to
8 the Magistrate Judge for discovery disputes.

9 For purposes of this thing, I will do it myself, but just to make
10 sure that both sides are in agreement as to what the expedited discovery
11 -- how much I will allow and what the subject matter will be.

12 * * *

13 So what I want you guys to do, *I want you to initially meet and*
14 *confer and discuss the issues of what discovery would be requested,*
15 *and obviously, it has to be limitations in terms of the number and, et*
16 *cetera, et cetera.*

17 To the extent you can agree, then you let me know what you guys
18 agree to. If you can't agree, then what I want is both sides to give me a
19 joint filing, like, a regular discovery dispute telling me what has been
20 asked for, what the opposition is, and a response to the opposition or
21 objection, rather.

22 I will make a ruling when you guys come back.

23 So I presume you guys can meet and confer this week and it
24 seems to me that I will ask you guys to give me a report by the 5th of
25 August as to what you can agree on, and what you cannot agree on
26 insofar as expedited discovery is concerned.

27 7/29/24 Tr. 12:23-13:15; 14:1-14:14 (emphasis added).

28 Consistent with their understanding of the Court's instructions as set forth
above, Defendants' counsel promptly requested a meeting with Move's counsel "to
initially meet and confer and discuss the issues of what discovery would be
requested, and . . . limitations in terms of the number." (*Id.*; Walch Decl. ¶ 8.)
Defendants sent a proposed stipulation addressing these topics on August 1, 2024.
The parties' counsel then met and conferred on the afternoon of August 2, 2024 and,
despite Move's claims to the contrary, Defendants' counsel made clear during the

1 meet and confer that the subjects of Defendants' requested discovery sought by
2 Defendants were the same subject matters for discovery identified in its *ex parte*
3 applications. (Walch Decl. ¶ 10.) Defendants went ahead and voluntarily served its
4 written discovery requests on Move on August 4, 2024.

5 In any event, there is no prejudice imposed by the timing of Defendants'
6 service of its discovery as compared to whatever unspecified deadline Move claims
7 should have applied for the service of such requests. As set forth in this substantial
8 document, Move had sufficient time to prepare and provide objections to these
9 requests. To be clear, Defendants had proposed that Move could assert objections
10 on or before the proposed August 12, 2024 deadline for written responses and that
11 Move did not need to serve such specific objections today. Moreover, Defendants
12 are proposing that Move has until August 19, 2024 to substantially complete the
13 production of documents. Defendants submit that their proposed timeframes for
14 expedited discovery are more than reasonable given Move's purported claim for
15 urgency in its request that the Court hold a preliminary injunction hearing as soon
16 as possible.

17 With respect to Move's other general objections to all discovery requests,
18 Defendants note that they are not seeking information from other companies or
19 privileged information, seeking to impose obligations beyond those imposed by the
20 applicable rules, or requiring Move to provide information or produce documents
21 without designating them properly under the Confidentiality Protective Order (ECF
22 No. 40).

23 **A. Parties' Positions on Defendants' Interrogatories**

24 **INTERROGATORY NO. 1:**

25 Identify all ALLEGED TRADE SEC[RE]TS forming the basis of the
26 PRELIMINARY INJUNCTION MOTION, what measures were taken to keep each
27 ALLEGED TRADE SECRET confidential, the economic value YOU derived from
28

1 each ALLEGED TRADE SECRET, and the basis for YOUR claim that the
2 ALLEGED TRADE SECRETS are protectable under the DTSA and CUTSA.

3 ***Move's Objections and Position***

4 Move objects to this Interrogatory because it seeks information already
5 provided in Move's Preliminary Injunction Motion and attached affidavits and
6 exhibits. The information is therefore already in Defendants' possession, custody,
7 or control, and available to Defendants through a more convenient, more efficient,
8 less burdensome, or less expensive means. Move also objects to this Interrogatory
9 because it contains compound and conjunctive questions, which, when read as
10 discrete subparts, exceed ten interrogatories.

11 Subject to the above objections, to the extent Move is required to respond to
12 Defendants' untimely discovery requests, Move will respond to the first inquiry in
13 the compound interrogatory, which requests that Move identify the trade secrets that
14 form the basis for its preliminary injunction motion.. Because this Interrogatory
15 contains compound and conjunctive questions, which, when read as discrete
16 subparts, constitute four interrogatories, this Interrogatory should constitute four of
17 Defendants' ten interrogatories.

18 ***Defendants' Response***

19 Move's objections are improper and should be overruled. With this
20 interrogatory, Defendants seek information that is essential to Move's ability to
21 prevail on the merits of its DTSA and CUTSA claims. Move must show that the
22 information taken constitutes trade secrets, which entails showing that Move has
23 taken adequate measures to protect the purported trade secrets and that they derive
24 economic value from their secrecy. The "subparts" to this question to which Move
25 takes issue are directly relevant to whether Move's information constitutes trade
26 secrets subject to protection under the DTSA and CUTSA. This request thus tracks
27 the most basic information that would be required for Move to establish a likelihood
28

1 of success on its DTSA and CUTSA claims. Defendants' request is thus, specific,
2 clear, and proper.

3 **INTERROGATORY NO. 2:**

4 For each ALLEGED TRADE SECRET, identify which of YOU owns the
5 trade secret, where it was stored (including but not limited to the file path and hash
6 value), each PERSON that had access to the ALLEGED TRADE SECRET and their
7 employer, and all security measures, password protection, permissions, or other
8 authentications required to access the ALLEGED TRADE SECRET.

9 ***Move's Objections and Position***

10 Move objects to this Interrogatory because it is overbroad, unduly
11 burdensome, and seeks information that is irrelevant to Move's motion for
12 preliminary injunction. Move also objects to this Interrogatory because it seeks
13 information already provided in Move's Preliminary Injunction Motion and attached
14 affidavits and exhibits, and therefore already in Defendants' possession, custody, or
15 control, and available to Defendants through a more convenient, more efficient, less
16 burdensome, or less expensive means. Move further objects to this Interrogatory
17 because it contains compound and conjunctive questions, which, when read as
18 discrete subparts, exceed ten interrogatories.

19 Subject to the above objections, to the extent it is required to respond to
20 Defendants' untimely discovery requests, Move will respond to the first inquiry in
21 the compound interrogatory, which requests that Move identify which party owns
22 each of the trade secrets that are the basis of Move's Motion for Preliminary
23 Injunction. Because this Interrogatory contains four questions, it should count as
24 four of Defendants' ten interrogatories.

25 ***Defendants' Response***

26 Move's objections are improper and should be overruled. Defendants seek
27 information that is essential to Move's ability to prevail on the merits of its DTSA
28 and CUTSA claims. To qualify as "trade secret" information, Move must show,

1 among other things, that its rights in the trade secrets and that it “has taken
 2 reasonable measures to keep such information secret.” 18 U.S.C. § 1839(3); *see also*
 3 Cal. Civ. Code § 3426.1(d). The “subparts” to this question simply provide more
 4 specificity regarding the information that Move needs to provide regarding the
 5 measures it has taken to protect and keep secret each alleged trade secret. This is
 6 directly relevant to the Court’s assessment of the likelihood of success on the merits
 7 of Move’s claim.

8 Moreover, Move has not provided of the full range of the requested
 9 information in the Preliminary Injunction Motion and related supporting documents
 10 despite its claims to the contrary.

11 **INTERROGATORY NO. 3:**

12 State with particularity all facts supporting YOUR claim that KAMINSKY
 13 and COSTAR are “working to build up a new digital product similar to
 14 Realtor.com’s News & Insights platform” including what that product is and any
 15 steps tak[en] to verify or investigate that claim. See Complaint ¶ 6; Motion for
 16 Preliminary Injunction at 6.

17 ***Move’s Objections and Position***

18 Move objects to this Interrogatory to the extent it seeks information about
 19 “steps tak[en] to verify or investigate” allegations in the Complaint or Motion for
 20 Preliminary Injunction. Such information is irrelevant and seeks information
 21 protected from disclosure by the attorney-client privilege and/or work-product
 22 doctrine. Move further objects to this Interrogatory because it seeks information in
 23 Defendants’ possession, custody, or control – Defendants are in possession of
 24 information about their own products and need no such information from Move to
 25 defend against the Motion for Preliminary Injunction. Finally, Move again objects
 26 that this Interrogatory seeks information beyond the scope of Move’s Motion for
 27 Preliminary Injunction, which is narrowly focused on a discrete set of documents
 28 and does not seek to enjoin Defendants from building their competing product.

1 Given the compound nature of Defendants' interrogatories, they have also
2 propounded more than ten interrogatories, which exceeds the scope of the limited
3 discovery granted..

4 Move should not be required to respond to this Interrogatory.

5 ***Defendants' Response***

6 Move's objections are improper and should be overruled. Move's objections
7 underscore its desire to suppress evidence that is not only relevant to, but goes to the
8 heart of its Motion for a Preliminary Injunction. Move seeks to "enjoin Defendants
9 from further misappropriating trade secrets," Dkt. 12 at 22, predicated on allegations
10 that CoStar and Mr. Kaminsky are, in fact, working to build a competing platform.
11 *See, e.g.*, Dkt. 12 at 19 ("Irreparable harm will continue to occur. Move's trade
12 secrets have been taken by an employee of its competitor CoStar. . . . Now,
13 Defendants are stealing this hard-earned information to support their competing
14 business.'). Evidence related to the basis for Move's allegations is squarely within
15 the scope of information relevant to Move's Motion for a Preliminary Injunction,
16 and is not already within Defendants' possession, custody, or control. If Move does
17 not have any such evidence, it should be required to state as much.

18 Defendants do not seek privileged information. Any responsive,
19 nonprivileged information should be produced.

20 **INTERROGATORY NO. 4:**

21 State with particularity all facts supporting YOUR claim that COSTAR has
22 accessed or is using YOUR ALLEGED TRADE SECRETS, including but not
23 limited to when and by who that access occurred and how YOUR ALLEGED
24 TRADE SECRETS were used. For the avoidance of doubt, this Interrogatory
25 encompasses, but is not limited to, YOUR factual basis, if any, for YOUR
26 allegations that "Defendants are stealing this hard-earned information to support
27 their competing business" (Motion for Preliminary Injunction at 19) and that
28 "CoStar, through its employee, Mr. Kaminsky, has been brazenly and repeatedly

1 misappropriating Move's confidential and trade secret information to give
2 Homes.com a massive jump start in setting up its new offering" (Complaint ¶ 7).

3 ***Move's Objections and Position***

4 Move objects to this Interrogatory because it seeks information in Defendants'
5 possession, custody, or control. Move also objects to this Interrogatory to the extent
6 it also seeks information about allegations in the Complaint that are irrelevant to
7 Move's motion for preliminary injunction. Again, not all of Move's trade secrets
8 are the subject of the Motion for Preliminary Injunction and the scope of expedited
9 discovery is limited to the narrow subject of the Motion for Preliminary Injunction.
10 Move further objects that this Interrogatory is comprised of four interrogatories and
11 seeks the factual basis for multiple contentions and thus should count as more than
12 one interrogatory.

13 Subject to the above objections, to the extent it is required to respond to
14 Defendants' untimely discovery requests, Move will respond to the first question,
15 which seeks facts about CoStar's use or access to Move's trade secret information.
16 Move also objects to this Interrogatory because it contains compound and
17 conjunctive questions, which, when read as discrete subparts, exceed ten
18 interrogatories.

19 ***Defendants' Response***

20 Move's objections are improper and should be overruled. Move's objections
21 underscore its desire to suppress evidence that is not only relevant to, but goes to the
22 heart of its Motion for a Preliminary Injunction. Move seeks to "enjoin Defendants
23 from further misappropriating trade secrets," Dkt. 12 at 22, predicated on allegations
24 that CoStar is "accessing" and "using" its trade secrets. Any and all facts relating to
25 the basis for Move's allegations in this regard is squarely within the scope of
26 information relevant to Move's Motion for a Preliminary Injunction, and is not
27
28

1 already within Defendants' possession, custody, or control. If Move does not have
 2 any such evidence, it should be required to state as much.

3 **INTERROGATORY NO. 5:**

4 State with particularity when and how YOU discovered KAMINSKY's
 5 alleged access to YOUR GOOGLE DRIVE after his employment at MOVE ended,
 6 any steps taken as a result of such discovery, and why MOVE waited until July 2 to
 7 file the COMPLAINT.

8 ***Move's Objections and Position***

9 Move objects to this Interrogatory to the extent it seeks information about the
 10 timing of the filing of Move's Complaint, which is irrelevant to Move's motion for
 11 preliminary injunction and also seeks information protected from disclosure by the
 12 attorney-client privilege and/or work-product doctrine. Move also objects to this
 13 Interrogatory because it seeks information already provided in Move's Preliminary
 14 Injunction Motion and attached affidavits and exhibits. It is therefore already in
 15 Defendants' possession, custody, or control, and available to Defendants through a
 16 more convenient, more efficient, less burdensome, or less expensive means. Finally,
 17 Move objects to this Interrogatory because it contains compound and conjunctive
 18 questions, which, when read as discrete subparts, exceed ten interrogatories.

19 Subject to the above objections, and to the extent Move is required to respond
 20 to Defendants' untimely discovery requests, Move will provide non-privileged
 21 information that is responsive to the questions in this Interrogatory, that seek
 22 information about when and how Move discovered Defendant Kaminsky's access to
 23 Move's Google Drive after his employment at Move ended. Because this
 24 Interrogatory is comprised of three interrogatories, it should count as more than one
 25 interrogatory.

26 ***Defendants' Response***

27 Move's objections are improper and should be overruled. Information related
 28 to the discovery of Mr. Kaminsky's "alleged access to [MOVE's] GOOGLE DRIVE

1 after his employment at MOVE ended” is directly relevant to Move’s Motion for a
 2 Preliminary Injunction insofar as Move must show it will suffer immediate
 3 irreparable harm as a result of such access. A delay in Move’s response to this
 4 discovery, including the filing of its Complaint, would undermine Move’s ability to
 5 make such a showing, and is therefore plainly relevant.

6 Moreover, Move has not sufficiently provided this information—specifics
 7 regarding when and how Move learned about Mr. Kaminsky’s alleged access and
 8 any steps taken as a result—in its Preliminary Injunction Motion and supporting
 9 materials. As just one example, in the declaration of Amy Maas in support of
 10 Move’s motion for a preliminary injunction, Maas indicates she received a
 11 screenshot showing that Mr. Kaminsky had accessed a file after his termination.
 12 However, Move has provided no information on how Maas was informed, who Maas
 13 informed, the immediate next steps taken, any investigation of team members to
 14 determine any prior access or views of Mr. Kaminsky allegedly in Move documents,
 15 and more. Move’s brief overview provided in its Motion and supporting materials
 16 are not a substitute for reasonable discovery on a critical issue relating to the urgency
 17 and immediacy of the claimed harm.

18 Defendants do not seek privileged information. Any responsive,
 19 nonprivileged information should be produced.

20 **INTERROGATORY NO. 6:**

21 State with particularity all facts supporting YOUR contention that YOU will
 22 suffer irreparable harm as a result of Defendants’ alleged misappropriation of YOUR
 23 ALLEGED TRADE SECRETS, including but not limited to any “loss of market
 24 position” attributable to Defendants’ actions. See Motion for Preliminary Injunction
 25 at 16.

26 ***Move’s Position***

1 Move objects to this Interrogatory to the extent it seeks information about
2 allegations in the Complaint that are irrelevant to Move's motion for preliminary
3 injunction.

4 Subject to the above objections, to the extent it is required to respond to
5 Defendants' untimely discovery requests, Move will provide non-privileged
6 information related to the trade secret information at issue in the Motion for
7 Preliminary Injunction.

8 ***Defendants' Response***

9 Move's objections are improper and should be overruled. Move's objections
10 underscore its desire to suppress evidence that is not only relevant to, but goes to the
11 heart of, Move's Motion for a Preliminary Injunction. The *fundamental showing*
12 Move must make to obtain a preliminary injunction is that it will suffer immediate
13 and irreparable harm. Information supporting Move's contention that it will suffer
14 such harm is therefore not only relevant but inextricably linked to Move's Motion
15 for a Preliminary Injunction, and should be produced. Move appears to agree to
16 provide such information assuming its general objections are overruled
17 notwithstanding its baseless relevant objection. In any event, it needs to provide this
18 information as it is fundamental to the issues raised by its Motion.

19 **INTERROGATORY NO. 7:**

20 State with particularity all facts supporting YOUR claim that KAMINSKY'S
21 alleged misappropriation of YOUR ALLEGED TRADE SECRETS was "within the
22 scope of his employment," "meant to aid CoStar," or was otherwise "attributable"
23 to COSTAR. See Motion for Preliminary Injunction at 15, 18.

24 ***Move's Objections and Position***

25 Move objects to this Interrogatory because it seeks information in Defendants'
26 possession, custody, or control.

27 Subject to the above objections, to the extent it is required to respond to
28 Defendants' untimely discovery requests, Move will respond to this request.

1 ***Defendants' Response***

2 Move's objections are improper and should be overruled. As detailed above
3 in Defendants' Responses to Plaintiffs' General Objections, Defendants' requests
4 were timely served and Defendants are not seeking any documents not within
5 Move's possession, custody or control.

6 **INTERROGATORY NO. 8:**

7 State with particularity all facts supporting YOUR contention that
8 KAMINSKY's role at COSTAR relates to "building a new digital production" to
9 compete with MOVE's News & Insights platform, including any investigation
10 related to that allegation and all individuals YOU spoke to regarding their
11 understanding of KAMINSKY's role, responsibilities, and employment at CoStar,
12 including but not limited to MOVE employees.

13 ***Move's Objections and Position***

14 Move objects to this Interrogatory to the extent it seeks information about
15 Move's investigation into the allegations in the Complaint or Motion for Preliminary
16 Injunction. Such information is irrelevant and seeks information protected from
17 disclosure by the attorney-client privilege and/or work-product doctrine. Move
18 further objects to this Interrogatory because it (a) seeks information in Defendants'
19 possession, custody, or control, and (b) seeks information that is irrelevant to
20 Move's motion for preliminary injunction, going far beyond the limited issues
21 addressed by that motion. Finally, Move objects to this Interrogatory because it
22 contains compound and conjunctive questions, which, when read as discrete
23 subparts, exceed ten interrogatories.

24 Move should not be required to respond to this Interrogatory..

25 ***Defendants' Response***

26 Move's objections are improper and should be overruled. Move's objections
27 underscore its desire to suppress evidence that is not only relevant to, but goes to the
28 heart of, both this case and Move's Motion for a Preliminary Injunction. Move seeks

1 to “enjoin Defendants from further misappropriating trade secrets,” Dkt. 12 at 22,
 2 predicated on allegations that CoStar and Mr. Kaminsky are, in fact, working to build
 3 a competing platform. *See, e.g.*, Dkt. 12 at 19 (“Irreparable harm will continue to
 4 occur. Move’s trade secrets have been taken by an employee of its competitor
 5 CoStar. . . . Now, Defendants are stealing this hard-earned information to support
 6 their competing business.”). Information related to the basis for Move’s “contention
 7 that KAMINSKY’s role at COSTAR relates to ‘building a new digital production’”
 8 is therefore directly relevant to the core allegations underlying Move’s Motion for a
 9 Preliminary Injunction. If Move does not have any such evidence, it should be
 10 required to state as much.

11 Defendants do not seek privileged information. Any responsive,
 12 nonprivileged information should be produced.

13 **INTERROGATORY NO. 9:**

14 State with particularity when and how YOU discovered that KAMINSKY
 15 allegedly deleted electronic files and browsing history from his MOVE laptop,
 16 identifying any policy prohibiting such conduct and any steps taken after such
 17 discovery to recover the allegedly deleted files and history.

18 ***Move’s Objections and Position***

19 Move objects to this Interrogatory because it seeks information already
 20 provided in Move’s Preliminary Injunction Motion and attached affidavits and
 21 exhibits. It is therefore already in Defendants’ possession, custody, or control, and
 22 available to Defendants through a more convenient, more efficient, less burdensome,
 23 or less expensive means. Move also objects to this Interrogatory to the extent it
 24 seeks information about “any steps taken after such discovery to recover the
 25 allegedly deleted files and history” because such information is irrelevant to Move’s
 26 motion for preliminary injunction. Finally, Move also objects to this Interrogatory
 27 because it contains compound and conjunctive questions, which, when read as
 28 discrete subparts, exceed ten interrogatories.

1 Subject to the above objections, to the extent Move is required to respond to
 2 Defendants' untimely discovery requests, Move will provide non-privileged
 3 information that is responsive to the questions in this Interrogatory that seek
 4 information about how Move discovered that Defendant Kaminsky deleted
 5 electronic files and browsing history. Because this Interrogatory contains at least
 6 three questions, it should count as at least three of Defendants' ten interrogatories.

7 ***Defendants' Response***

8 Move's objections are improper and should be overruled. Information related
 9 to the discovery of Mr. Kaminsky's alleged deletion of files is directly relevant to
 10 Move's Motion for a Preliminary Injunction insofar as Move relies extensively on
 11 Mr. Kaminsky's alleged activity to support its injunction request. The timing of
 12 Move's discovery of this information is similarly related to Move's ability to show
 13 it will suffer immediate and irreparable harm, which entails an absence of undue
 14 delay by Move.

15 Moreover, to qualify as "trade secret" information, Move must show, among
 16 other things, that it "has taken reasonable measures to keep such information secret."
 17 18 U.S.C. § 1839(3); *see also* Cal. Civ. Code § 3426.1(d). Information about Move's
 18 policies prohibiting the deletion of electronic files and browsing history relates
 19 directly to its ability to make this showing and thus Move's ability to prove its
 20 likelihood of success on the merits.

21 **INTERROGATORY NO. 10:**

22 State with particularity all facts supporting YOUR claim that COSTAR is
 23 "free-riding on Move's investment, years of analysis, trial and error, and hard work,"
 24 as well as all steps taken to verify or investigate that claim. See Motion for
 25 Preliminary Injunction at 19, Complaint ¶ 24.

26 ***Move's Objections and Position***

27 Move objects to this Interrogatory because it seeks information that is
 28 irrelevant to Move's motion for preliminary injunction and is protected from

disclosure by the attorney-client privilege and/or work-product doctrine. Move objects that the interrogatory is duplicative of other interrogatories and is not narrowly tailored to the subjects of the Motion for Preliminary Injunction. Move also objects to this Interrogatory because it contains compound and conjunctive questions, which, when read as discrete subparts, exceed ten interrogatories.

Move should not be required to respond to this Interrogatory..

Defendants' Response

Move's objections are improper and should be overruled. For the reasons stated above, Move should be required to state all facts relating to a fundamental claim that it is making in support of its preliminary injunction motion—namely that CoStar is “free-riding on Move’s investment, years of analysis, trial and error, and hard work.” If Move does not have any facts to support such allegation, it should be required to state as much. Moreover, this is not an improper compound or conjunctive interrogatory as it addresses one of the arguments made by Move in its Motion for a Preliminary Injunction and simply requires that Move provide all facts that it has to support that argument.

Finally, Defendants do not seek privileged information. Any responsive, nonprivileged information should be produced.

B. Parties' Positions on Defendants' Requests for Production

REQUEST FOR PRODUCTION NO. 1:

All NAMED DOCUMENTS and ALLEGED TRADE SECRETS that YOU contend in the PRELIMINARY INJUNCTION MOTION were accessed or misappropriated by KAMINSKY, including each DOCUMENT listed in Exhibit A and Exhibit B to the Declaration of Howard Pence in Support of Plaintiff's Motion for Preliminary Injunction, in the form(s) or version(s) that each DOCUMENT(s) existed at the time(s) that KAMINSKY's allegedly improper access occurred for such DOCUMENT(s).

Move's Objections and Position

1 Move objects to this Request to the extent it seeks the production of
2 documents that were referenced in Move's motion for preliminary injunction but do
3 not form the basis of Move's request for injunctive relief.

4 Subject to and without waiving its objections, Move will produce complete
5 copies of the following four documents:

- 6 a. The "Comms + Econ + N&I Project Call" file, excerpts of which are
7 attached as Exhibit A to the Declaration of Alexandra Holbert;
- 8 b. The "Editorial Budget" file, excerpts of which are attached as Exhibit
9 B to the Declaration of Alexandra Holbert;
- 10 c. The "N&I Audience and Revenue for PMDLT" file, attached as Exhibit
11 A to the Declaration of Max Zimbert; and
- 12 d. The employment summaries of several individuals at Move, including
13 job titles, descriptions, and compensation, that Mr. Kaminsky sent to a
14 personal Gmail account on January 12, 2024, and attached as Exhibit A
15 to the Declaration of Carl Gruenberg.

16 ***Defendants' Response***

17 Move's objections are improper and should be overruled. Move references
18 throughout its Motion for a Preliminary Injunction and supporting materials,
19 specifically in the Pence Declaration in support of Move's Motion for a Preliminary
20 Injunction (Dkt. 12-6), many documents beyond those listed above in Move's
21 objections and position. Move also routinely relies on the number of documents and
22 access to all referenced documents in its Motion for a Preliminary Injunction in its
23 efforts to convey Mr. Kaminsky in a bad light. *See, e.g.*, Dkt. 12 at 6 & n.3. As
24 such, Defendants are entitled to the production of all at issue documents. However,
25 Defendants are willing to accept the limited production Move has offered above so
26 long as Move commits it is not seeking a preliminary injunction based on any
27 documents other than those encompassed by the limited production, and commits to
28

1 not relying on the allegations or any argument regarding any alleged access to the
2 documents that “do not form the basis of Move’s request for injunctive relief.”

3 **REQUEST FOR PRODUCTION NO. 2:**

4 All DOCUMENTS relating to YOUR discovery and investigation of
5 KAMINSKY’s alleged deletion of electronic files and browsing history from his
6 MOVE laptop before returning that laptop to MOVE, as well as any policy,
7 procedure, or practice: (1) prohibiting such deletion, and (2) governing the return of
8 any electronic devices by YOUR employees to YOU at the end of their employment
9 with YOU.

10 ***Move’s Objections***

11 Move objects to this Request because it is overbroad and vague in that it is
12 not limited to Defendant James Kaminsky and does not specify a timeframe for the
13 Request. Move further objects to this Request because it seeks information already
14 provided in Move’s Preliminary Injunction Motion and attached affidavits and
15 exhibits. It is therefore already in Defendants’ possession, custody, or control, and
16 available to Defendants through a more convenient, more efficient, less burdensome,
17 or less expensive means. Finally, Move objects to this Request to the extent it seeks
18 documents related to Move’s investigation, which are irrelevant to the Motion for
19 Preliminary Injunction and may be protected from disclosure by the attorney-client
20 privilege or work-product doctrine.

21 ***Defendants’ Response***

22 Move’s objections are improper and should be overruled. Defendants have
23 not limited their request to information related to “Defendant James Kaminsky”
24 because any practice or policy of Move prohibiting deletion of files or governing the
25 return of electronic devices by anyone who is employed by Move and/or has had
26 access to the alleged trade secrets is relevant to Move’s treatment of its confidential
27 information and electronic security, and thus is directly relevant to Defendants’
28

1 defense of Move's Motion for a Preliminary Injunction. Specifically, Move's
2 treatment of such information is directly relevant to Move's DTSA claim.

3 In addition, such information regarding documents related to the "discovery
4 and investigation" of Mr. Kaminsky's deletion as well as general employment
5 policies regarding deletion of files or return of electronic devices is not contained in
6 any requisite level of detail or specificity in the Motion for a Preliminary Injunction
7 or supporting materials.

8 Documents related to Move's investigation are highly relevant to the Motion
9 for Preliminary injunction as it goes directly to the basis of Move's claim that it has
10 been irreparably harmed by the actions of Defendants. Such claims of irreparable
11 harm are entirely linked to Move's request for a preliminary injunction.

12 Defendants limit their request to the time frame of January 1, 2024 through
13 the present.

14 Finally, Defendants do not seek privileged documents. Any responsive,
15 nonprivileged documents should be produced.

16 **REQUEST FOR PRODUCTION NO. 3:**

17 All DOCUMENTS relating to YOUR discovery and investigation (whether
18 performed by YOU or a third party on YOUR behalf) of KAMINSKY's alleged
19 access to the GOOGLE DRIVE after January 12, 2024, including KAMINSKY's
20 alleged access, transmission, and/or dissemination of the NAMED DOCUMENTS.

21 ***Move's Objections and Position***

22 Move objects to this Request because it seeks information already provided
23 in Move's Preliminary Injunction Motion and attached affidavits and exhibits, and
24 therefore already in Defendants' possession, custody, or control. It is therefore
25 available to Defendants through a more convenient, more efficient, less burdensome,
26 or less expensive means. Move objects to this Request to the extent it seeks
27 documents related to Move's investigation, which are irrelevant to the Motion for
28

1 Preliminary Injunction and may be protected from disclosure by the attorney-client
2 privilege or work-product doctrine.

3 ***Defendants' Response***

4 Move's objections are improper and should be overruled. Documents related
5 to the "discovery and investigation" of Mr. Kaminsky's "alleged access to the
6 GOOGLE DRIVE after January 12, 2024" is not sufficiently provided in Move's
7 Motion for a Preliminary Injunction and supporting materials. As just one example,
8 in the declaration of Amy Maas in support of Move's motion for a preliminary
9 injunction, Maas indicates she received a screenshot showing that Mr. Kaminsky
10 had accessed to file after his termination. However, Move has provided no
11 information on how Maas was informed, who Maas informed, the immediate next
12 steps taken, any investigation of team members to determine any prior access or
13 views of Mr. Kaminsky allegedly in Move documents, and more. Move's brief
14 overview provided in its Motion and supporting materials are not a substitute for
15 discovery.

16 Further, documents related to Move's investigation are highly relevant to the
17 Motion for a Preliminary Injunction as it goes directly to the basis of Move's claim
18 that Mr. Kaminsky has appropriated Move's trade secrets and the irreparable harm
19 Move suffered as a result. Finally, Defendants do not seek privileged documents.
20 Any responsive, nonprivileged documents should be produced.

21 **REQUEST FOR PRODUCTION NO. 4:**

22 All DOCUMENTS relating to KAMINSKY's and/or COSTAR's alleged
23 transmission, possession, and/or use of the NAMED DOCUMENTS and/or
24 ALLEGED TRADE SECRETS after January 12, 2024, including any investigation
25 into such conduct. For the avoidance of doubt, this Request encompasses, but is not
26 limited to, DOCUMENTS reflecting YOUR basis, if any, for YOUR allegations that
27 "Defendants are stealing this hard-earned information to support their competing
28 business" (Motion for Preliminary Injunction at 19) and that "CoStar, through its

1 employee, Mr. Kaminsky, has been brazenly and repeatedly misappropriating
 2 Move's confidential and trade secret information to give Homes.com a massive jump
 3 start in setting up its new offering" (Complaint ¶ 7).

4 ***Move's Objections and Position***

5 Move objects to this Request because it seeks the production of documents
 6 that are irrelevant to Move's motion for preliminary injunction and are protected
 7 from disclosure by the attorney-client privilege and/or work-product doctrine.
 8 Additionally, this Request seeks documents related to trade secret files that do not
 9 form the basis of Move's request for injunctive relief. It also seeks documents
 10 related to Move's investigation, which are not only irrelevant, but may also be
 11 protected from disclosure by the attorney-client privilege and work-product doctrine.

12 ***Defendants' Response***

13 Move's objections are improper and should be overruled. Move's objections
 14 underscore its desire to suppress evidence that is not only relevant to, but goes to the
 15 heart of, both this case and Move's Motion for a Preliminary Injunction. Move seeks
 16 to "enjoin Defendants from further misappropriating trade secrets," Mot. (Dkt. 12)
 17 at 22, predicated on allegations that CoStar and Mr. Kaminsky are "stealing
 18 [Move's] hard-earned information to support [CoStar's] competing business." *Id.*
 19 at 19. Evidence related to the basis for Move's allegations is squarely within the
 20 scope of information relevant to Move's Motion for a Preliminary Injunction.

21 With regard to Move's objection that Defendants are seeking "documents
 22 related to trade secret files that do not form the basis of Move's request for injunctive
 23 relief," Move routinely relies on *all* of the allegedly trade secret materials at issue in
 24 this case in its Motion for a Preliminary Injunction. *See e.g.* Mot. at 6 & n.3. As
 25 such, Defendants are entitled to the production of Move's evidence that CoStar is
 26 using, relying on, possessing, or transmitting any referenced document. However,
 27 Defendants are willing to accept a limited production of only the responsive
 28 materials related to the documents Move argues are "subject of Move's preliminary

1 injunction motion,” *see* Move’s Objections and Position to RFP 1, so long as Move
 2 commits it is not seeking a preliminary injunction based on any documents other
 3 than those encompassed by the limited production, and commits to not relying on
 4 the allegations or arguments regarding any alleged access to the documents that “do
 5 not form the basis of Move’s request for injunctive relief.”

6 Finally, Defendants do not seek privileged documents. Any responsive,
 7 nonprivileged documents should be produced.

8 **REQUEST FOR PRODUCTION NO. 5:**

9 All DOCUMENTS that relate to any effort by YOU to maintain the
 10 confidentiality of the ALLEGED TRADE SECRETS including but not limited to
 11 any DOCUMENTS relating to the monitoring and security of YOUR GOOGLE
 12 DRIVE.

13 ***Move’s Objections and Position***

14 Move objects to this Request because it is unduly burdensome, overbroad, and
 15 seeks the production of documents that are irrelevant to Move’s motion for
 16 preliminary injunction and are protected from disclosure by the attorney-client
 17 privilege and/or work-product doctrine. This Request is not limited to the time frame
 18 or documents at issue in Move’s preliminary injunction motion, and it would not be
 19 possible to provide a complete response to this Request as framed on the expedited
 20 timeline here.

21 ***Defendants’ Response***

22 Move’s objections are improper and should be overruled. Defendants’ request
 23 that Move produce “All Documents” that relate to its efforts to “maintain the
 24 confidentiality of the ALLEGED TRADE SECRETS” does not seek documents that
 25 “are irrelevant to Move’s motion for preliminary injunction.” Move itself
 26 acknowledges such documents are only trade secret if it can establish that Move has
 27 “taken reasonable measures to keep such information secret.” Dkt. 12 (Mot.) at 12,
 28 citing 18 U.S.C. § 1839(3); Cal. Civ. Code § 3426.1(d).

Defendants' request is not limited to a time frame. Instead, Defendants seek "All Documents" related to Move's protection of its trade secrets for so long as the alleged trade secret documents were created. Such a request itself is as narrow in time as feasible as Move's confidentiality measures are highly relevant to establishing its protection of its trade secrets under the DTSA for the entirety of the life of Move's trade secret. Contrary to Move's assertion, Defendants have limited their request only to the confidentiality at issue to the specific alleged trade secret documents at issue in Move's Motion for a Preliminary Injunction, and thus such a request is narrowly tailored in response to Move's allegations in its Motion.

Finally, Defendants do not seek privileged documents. Any responsive, nonprivileged documents should be produced.

REQUEST FOR PRODUCTION NO. 6:

All DOCUMENTS relating to and reflecting access logs to the ALLEGED TRADE SECRETS dating back to their creation, or otherwise reflecting the individuals that reviewed or had access to those ALLEGED TRADE SECRETS.

Move's Objections and Position

Move objects to this Request because it is unduly burdensome, overbroad, and seeks the production of documents that are irrelevant to Move's motion for preliminary injunction and are protected from disclosure by the attorney-client privilege and/or work-product doctrine. This Request is not limited to the time frame or documents at issue in Move's preliminary injunction motion, and it would not be possible to provide a complete response to this Request as framed on the expedited timeline here.

Defendants' Response

Move's objections are improper and should be overruled. Move's objections underscore its desire to suppress evidence that is not only relevant to, but goes to the heart of, both this case and Move's Motion for a Preliminary Injunction. Move itself acknowledges that documents are only trade secret if it can establish that Move has

1 “taken reasonable measures to keep such information secret.” Dkt. 12 (Mot.) at 12,
 2 citing 18 U.S.C. § 1839(3); Cal. Civ. Code § 3426.1(d). As such, access logs dating
 3 back to the creation of Move’s alleged trade secret documents are necessary for
 4 Defendants to properly refute Move’s claim. It is imperative that Defendants know
 5 who had access to such information to evaluate whether such information is actually
 6 trade secret.

7 With regard to Move’s objection that Defendants are seeking “documents
 8 related to trade secret files that are irrelevant to Move’s request for injunctive relief,”
 9 Move references throughout its Motion for a Preliminary Injunction and supporting
 10 materials, specifically in the Pence Declaration in support of Move’s Motion for a
 11 Preliminary Injunction (Dkt. 12-6). Move routinely relies on *all* of the allegedly
 12 referenced documents in its motion for a preliminary injunction in its efforts to
 13 convey that Mr. Kaminsky stole Move’s trade secret information. *See e.g.* Mot. at
 14 6 & n.3. As such, Defendants are entitled to the production Move’s access logs for
 15 all such information. However, Defendants are willing to accept a limited
 16 production of only the responsive materials related to the documents Move argues
 17 are “subject of Move’s preliminary injunction motion,” *see* Move’s Objections and
 18 Position to RFP 1, so long as Move commits it is not seeking a preliminary injunction
 19 based on those documents, and commits to not relying on the allegations and
 20 arguments regarding any alleged access to the documents that “do not form the basis
 21 of Move’s request for injunctive relief.”

22 **REQUEST FOR PRODUCTION NO. 7:**

23 All DOCUMENTS relating to and reflecting KAMINSKY’s scope of
 24 employment at MOVE and his termination, including relating to his employment
 25 file, job responsibilities, performance reviews/evaluations, disciplinary actions
 26 taken against KAMINSKY, and MOVE’s decision to terminate KAMINSKY.

27 ***Move’s Objections and Position***

1 Move objects to this Request because it is overbroad, unduly burdensome, and
2 seeks the production of documents that are irrelevant to Move's motion for
3 preliminary injunction and are protected from disclosure by the attorney-client
4 privilege and/or work-product doctrine. The decision to terminate Mr. Kaminsky is
5 entirely irrelevant to the preliminary injunction motion. This Request is not limited
6 to the time frame or the issues in Move's preliminary injunction motion.

7 ***Defendants' Response***

8 In an effort to compromise, Defendants are willing to narrow RFP 7 to seek
9 documents relating to Mr. Kaminsky's job responsibilities at Move and Move's
10 decision to terminate Kaminsky. Move's other objections are improper and should
11 be overruled.

12 Documents related to Mr. Kaminsky's job responsibilities at Move are not
13 overbroad and are directly relevant to the Motion for a Preliminary Injunction
14 because one of Defendants' defenses to Move's misappropriation claim is that Mr.
15 Kaminsky did not misappropriate trade secrets because he did not and could not have
16 used Move confidential information or trade secrets at CoStar because his job
17 responsibilities were entirely different. Moreover, Defendants contend that Mr.
18 Kaminsky was not acting within the scope of employment when he accessed Move's
19 files because his job responsibilities at CoStar (writing lifestyle and architecture
20 pieces about condominium buildings in Manhattan) are entirely different than they
21 were at Move (writing real estate "news" stories). *See* Kaminsky Decl. (Dkt. No.
22 34-1) at ¶¶ 28-34. Accordingly, this RFP seeks documents related to the scope of
23 Mr. Kaminsky's employment at Move to show that there was no overlap with his
24 scope of work at CoStar, facts which among other things are relevant to negate an
25 element of Move's misappropriation claim and liability under a theory of respondeat
26 superior.

27 Further, Defendants seek all documents related to Mr. Kaminsky's
28 termination to corroborate Mr. Kaminsky's testimony that his layoff was

1 unexpected, that he granted himself access to the documents to conduct a job search,
 2 and that he had no intention of using the documents in any capacity at CoStar
 3 because he was not even contemplating a job at CoStar when he granted himself
 4 access to the documents. Kaminsky Decl. (Dkt. No. 34-1) ¶¶ 6-14.

5 Finally, Defendants do not seek privileged documents. Any responsive,
 6 nonprivileged document should be produced.

7 **REQUEST FOR PRODUCTION NO. 8:**

8 All DOCUMENTS relating to or reflecting YOUR knowledge of, inquiry
 9 into, or investigation performed by YOU or on YOUR behalf into KAMINSKY's
 10 employment at COSTAR, including KAMINSKY's roles and responsibilities at
 11 COSTAR and any communications with YOUR employees regarding such roles and
 12 responsibilities.

13 ***Move's Objections and Position***

14 Move objects to this Request because documents relating to Move's
 15 knowledge of or investigation into Defendant Kaminsky's employment at Defendant
 16 CoStar are irrelevant to Move's motion for preliminary injunction and are protected
 17 from disclosure by the attorney-client privilege and/or work-product doctrine. Such
 18 documents may also be protected from disclosure by the attorney-client privilege
 19 and/or work-product doctrine.

20 ***Defendants' Response***

21 Move's objections are improper and should be overruled. Move's objections
 22 underscore its desire to suppress evidence that is not only relevant to, but goes to the
 23 heart of, both this case and Move's Motion for a Preliminary Injunction. Move seeks
 24 to "enjoin Defendants from further misappropriating trade secrets," Mot. (Dkt. 12)
 25 at 22, predicated on allegations that CoStar and Mr. Kaminsky are working to build
 26 a competing platform and that Mr. Kaminsky is working for CoStar to accomplish
 27 such task. *Id.* at 6. Evidence related to the basis for Move's allegations is squarely
 28

1 within the scope of information relevant to Move's Motion for a Preliminary
2 Injunction.

3 Finally, Defendants do not seek privileged documents. Any responsive,
4 nonprivileged document should be produced.

5 **REQUEST FOR PRODUCTION NO. 9:**

6 All DOCUMENTS relating to your claim that COSTAR and KAMINSKY
7 are "working to build up a new digital product similar to Realtor.com's News &
8 Insights platform" including what that product is and any investigation or inquiries
9 undertaken related to that claim. See Complaint ¶ 6; Motion for Preliminary
10 Injunction at 6.

11 ***Move's Objections and Position***

12 Move objects to this Request because it seeks information that is irrelevant to
13 Move's motion for preliminary injunction, which does not depend on Mr.
14 Kaminsky's precise role at CoStar and does not seek to preclude CoStar's
15 development of a competing product, but instead is limited to specifically identified
16 trade secrets contained in files identified in the preliminary injunction motion. Move
17 further objects that the documents sought may be protected from disclosure by the
18 attorney-client privilege and/or attorney work product.

19 ***Defendants' Response***

20 Moves objections are improper and should be overruled. Move's objections
21 underscore its desire to suppress evidence that is not only relevant to, but goes to the
22 heart of, both this case and Move's Motion for a Preliminary Injunction. Move seeks
23 to "enjoin Defendants from further misappropriating trade secrets," Mot. (Dkt. 12)
24 at 22, predicated on allegations that CoStar and Mr. Kaminsky are working to build
25 a competing platform. *Id.* at 6. Evidence related to the basis for Move's allegations
26 is squarely within the scope of information relevant to Move's Motion for a
27 Preliminary Injunction specifically as such evidence goes to the heart of whether or
28 not Move can demonstrate irreparable harm.

1 Finally, Defendants do not seek privileged documents. Any responsive,
2 nonprivileged document should be produced.

3 **REQUEST FOR PRODUCTION NO. 10:**

4 All DOCUMENTS relating to or establishing any irreparable harm that
5 MOVE has suffered or will suffer as a result of Defendants' alleged
6 misappropriation of YOUR ALLEGED TRADE SECRETS, including but not
7 limited to any "loss of market position" attributable to Defendants' actions. See
8 Motion for Preliminary Injunction at 16.

9 ***Move's Objections and Position***

10 Move objects to this Request to the extent it seeks the production of
11 documents that relate to trade secret files that are not the subject of Move's
12 preliminary injunction motion. Move further objects to this Request to the extent
13 that it seeks information protected from disclosure by the attorney-client privilege
14 and/or work-product doctrine.

15 To the extent it is required to respond to Defendants' untimely discovery
16 requests, Move will produce documents responsive to this Request to the extent the
17 documents relate to trade secret files that form the basis of Move's request for
18 injunctive relief.

19 ***Defendants' Response***

20 Move's objections are improper and should be overruled. Move references
21 throughout its preliminary injunction motion and in the supporting materials,
22 specifically in the Pence Declaration in support of Move's Motion for a Preliminary
23 Injunction (Dkt. 12-6), many documents beyond those Move's argues are "subject
24 of Move's preliminary injunction motion." See Move's Objections and Position to
25 RFP 1. Move also routinely relies on the number of documents and access to all
26 referenced documents in its motion for a preliminary injunction in its efforts to
27 convey Mr. Kaminsky in a bad light. See, e.g., Mot. at 6 & n.3.
28

1 However, Defendants are willing to accept the limited production Move has
2 offered above so long as Move commits it is not seeking a preliminary injunction
3 based on any documents other than those encompassed by the limited production,
4 and commits not to rely on the allegations and arguments regarding any alleged
5 access to the documents that “do not form the basis of Move’s request for injunctive
6 relief.”

7 Defendants do not seek privileged documents. Any responsive, nonprivileged
8 documents should be produced

9 **C. Parties’ Positions on Defendants’ Deposition Notices**

10 **1. Notice of Deposition of Mickey Neuberger**

11 ***Move’s Objections and Position***

12 Defendants refused to provide the names of any individuals they wished to
13 depose until a week after the Court’s July 29 Order granting Defendants expedited
14 discovery. The names of the deponents sought by CoStar could have and should
15 have been provided to Move immediately, at most within a day or two of the Court’s
16 order allowing for expedited discovery. CoStar’s delay cost Move a week of
17 preparation time, as well as time to confer with the individuals noticed for deposition
18 to determine availability in August. Defendants sent a deposition notice for Mr.
19 Neuberger for the first time on Sunday, August 4, 2024, despite knowing Mr.
20 Neuberger’s identity as a declarant in support of Move’s Preliminary Injunction
21 Motion since July 15, 2024. The parties’ joint stipulation pursuant to Rule 37-2 was
22 due Monday, August 5, 2024. In the intervening hours (primarily over a weekend),
23 Move has not had an opportunity to determine when in August Mr. Neuberger and
24 counsel will be available for deposition. For the reasons stated herein, Defendants
25 should forfeit their ability to take any discovery at this expedited phase because of
26 their lack of diligence.

27 If the Court requires Move to make witnesses available for deposition in the
28 20 days between today and the date additional briefing is due, Move respectfully

1 requests that the Court limit the deposition of Mr. Neuberger to two hours of time
2 on the record with the topics of examination strictly limited to the issues in the
3 motion for preliminary injunction. Moreover, Move reserves all rights given that it
4 has not had time to determine whether Mr. Neuberger will be available during the
5 requested timeframe.

6 ***Defendants' Response***

7 Defendants never "refused" to identify the witnesses that it may seek to
8 depose. To the contrary, Plaintiffs have not requested that Defendants identify such
9 witnesses. In any event, Defendants have now identified such witnesses, although
10 they have reserved their right to request different witnesses and/or amend their notice
11 after they receive Plaintiffs' responses to the written requests and production of
12 documents. Plaintiffs are the parties that are claiming that they are entitled to
13 emergency relief and, in support of such request, they have provided declarations
14 from certain of its witnesses. It is entirely appropriate to request that at least certain
15 of those declarants be made available for deposition in advance of the deadline for
16 Defendants' opposition brief. In any event, under Defendants' proposed discovery
17 schedule, these depositions would not take place until after Plaintiffs substantially
18 complete the production of their documents and in advance of the proposed
19 September 5, 2024 deadline for Defendants' Motion. Defendants remain ready and
20 willing to meet and confer with Plaintiffs regarding the scheduling of this deposition
21 and will be prepared to revisit this issue with the Court if the parties are unable to
22 resolve their disputes relating to the scheduling of this deposition. Regardless, under
23 no circumstances should the Court find that Defendants have waived their right to
24 take any depositions for the various reasons set forth in Defendants' portions of this
25 Joint Stipulation.

26 Defendants do not object to limiting Mr. Neuberger's deposition to two hours
27 of deposition time and that such deposition be limited to the issues in the Motion for
28

1 a Preliminary Injunction. If Plaintiffs had raised this issue beforehand, Defendants
2 would have advised Plaintiffs of its position with respect to this demand.

3 **2. Notice of Deposition of Howard Pence**

4 ***Move's Objections and Position***

5 Move's incorporates by reference its objections and position with respect to
6 the Notice of Deposition of Mickey Neuberger.

7 As with Mr. Neuberger, if the Court still requires Move to make witnesses
8 available for deposition in the 20 days between today and the date additional briefing
9 is due, Move respectfully requests that the Court limit the deposition of Mr. Pence
10 to two hours of time on the record with the topics of examination strictly limited to
11 the issues in the motion for preliminary injunction. Moreover, Move reserves all
12 rights given that it has not had time to determine whether Mr. Pence and counsel will
13 be available at all during the requested timeframe.

14 ***Defendants' Response***

15 Defendants never "refused" to identify the witnesses that it may seek to
16 depose. To the contrary, Plaintiffs have not requested that Defendants identify such
17 witnesses. In any event, Defendants have now identified such witnesses, although
18 they have reserved their right to request different witnesses and/or amend their notice
19 after it receives Plaintiffs' responses to the written requests and production of
20 documents. Plaintiffs are the parties that are claiming that they are entitled to
21 emergency relief and, in support of such request, they have provided declarations
22 from certain of its witnesses. It is entirely appropriate to request that at least certain
23 of those declarants be made available for deposition in advance of the deadline for
24 Defendants' opposition brief. In any event, under Defendants' proposed discovery
25 schedule, these depositions would not take place until after Plaintiffs' substantially
26 complete the production of their documents and in advance of the proposed
27 September 5, 2024 deadline for Defendants' Motion. Defendants remain ready and
28 willing to meet and confer with Plaintiffs regarding the scheduling of this deposition

1 and will be prepared to revisit this issue with the Court if the parties are unable to
 2 resolve their disputes relating to the scheduling of this deposition. Regardless, under
 3 no circumstances should the Court find that Defendants have waived their right to
 4 take any depositions for the various reasons set forth in Defendants' portions of this
 5 Joint Stipulation.

6 Defendants do not object to limiting Mr. Pence's deposition to two hours of
 7 deposition time and that such deposition be limited to the issues in the motion for
 8 preliminary injunction. If Plaintiffs had raised this issue beforehand, Defendants
 9 would have advised Plaintiffs of its position with respect to this demand.

10 **3. Rule 30(b)(6) Deposition of Move Sales, Inc.**

11 **30(b)(6) TOPICS OF EXAMINATION**

12 **TOPIC NO. 1**

13 All NAMED DOCUMENTS and ALLEGED TRADE SECRETS that YOU
 14 contend in the PRELIMINARY INJUNCTION MOTION were accessed or
 15 misappropriated by KAMINSKY, including each DOCUMENT listed in Exhibit A
 16 and Exhibit B to the Declaration of Howard Pence in Support of Plaintiff's Motion
 17 for Preliminary Injunction, in the form(s) or version(s) that each DOCUMENT(s)
 18 existed at the time that KAMINSKY's allegedly improper access occurred.

19 **TOPIC NO. 2**

20 YOUR discovery and investigation of KAMINSKY's alleged deletion of
 21 electronic files and browsing history from his MOVE laptop before returning that
 22 laptop to MOVE, as well as any policy, procedure, or practice: (1) prohibiting such
 23 deletion, and (2) governing the return of any electronic devices by YOUR employees
 24 to YOU at the end of their employment with YOU.

25 **TOPIC NO. 3**

26 YOUR discovery and investigation (whether performed by YOU or a third
 27 party on YOUR behalf) of KAMINSKY's alleged access to the GOOGLE DRIVE
 28

1 after January 12, 2024, including KAMINSKY's alleged access, transmission,
2 and/or dissemination of the NAMED DOCUMENTS.

3 **TOPIC NO. 4**

4 YOUR policies, practices, and efforts to maintain the confidentiality of the
5 NAMED DOCUMENTS and ALLEGED TRADE SECRETS, including but not
6 limited to the monitoring and security of YOUR GOOGLE DRIVE.

7 **TOPIC NO. 5**

8 Any and all confidentiality, non-disclosure, or other agreements that YOU
9 require any PERSON (including non-employees) to enter or sign before that
10 PERSON is given or provided access to the NAMED DOCUMENTS, ALLEGED
11 TRADE SECRETS, and/or GOOGLE DRIVE.

12 **TOPIC NO. 6**

13 KAMINSKY's scope of employment at MOVE and his termination, including
14 his job responsibilities, performance reviews/evaluations, disciplinary actions taken
15 against KAMINSKY, and MOVE's decision to terminate KAMINSKY.

16 **TOPIC NO. 7**

17 KAMINSKY's and/or COSTAR's alleged transmission, possession, and/or
18 use of the NAMED DOCUMENTS and/or ALLEGED TRADE SECRETS after
19 January 12, 2024, including any investigation into such conduct. For the avoidance
20 of doubt, this Topic encompasses, but is not limited to, YOUR basis, if any, for
21 YOUR allegations that "Defendants are stealing this hard-earned information to
22 support their competing business" (Motion for Preliminary Injunction at 19) and that
23 "CoStar, through its employee, Mr. Kaminsky, has been brazenly and repeatedly
24 misappropriating Move's confidential and trade secret information to give
25 Homes.com a massive jump start in setting up its new offering" (Complaint ¶ 7).

26 **TOPIC NO. 8**

27 YOUR knowledge of, inquiry into, or investigation performed by YOU or on
28 YOUR behalf into KAMINSKY's employment at COSTAR, including

1 KAMINSKY's roles and responsibilities at COSTAR and any communications with
2 YOUR employees regarding such roles and responsibilities.

3 **TOPIC NO. 9**

4 All facts and circumstances related to YOUR claim that COSTAR and
5 KAMINSKY are "working to build up a new digital product similar to Realtor.com's
6 News & Insights platform" including what that product is and any investigation or
7 inquiries undertaken related to that claim. See Complaint ¶ 6; Motion for
8 Preliminary Injunction at 6.

9 **TOPIC NO. 10**

10 Any and all irreparable harm that YOU have suffered or contend you will suffer as
11 a result of Defendants' alleged misappropriation of YOUR ALLEGED TRADE
12 SECRETS, including but not limited to any "loss of market position" attributable to
13 Defendants' actions. See Motion for Preliminary Injunction at 16.

14 ***Move's Objections and Position***

15 Move objects to Defendants' notice of a Rule 30(b)(6) deposition as
16 overbroad; unduly burdensome; and seeking irrelevant information and/or
17 information that could be obtained through less burdensome means. Move further
18 objects that the notice seeks information protected by the attorney-client privilege
19 and the attorney work product. Defendants seek a corporate deposition covering ten
20 topics, which vastly expands the scope of discovery and far exceeds the limited
21 topics that are relevant to Move's motion for preliminary injunction. Mr. Kaminsky
22 knows the names of persons he worked with at Move who have information relevant
23 to the preliminary injunction motion. Indeed, Defendants have known the identity
24 of the declarants who provided sworn declarations since they were filed and served
25 on July 15, 2024. Defendants could have and should have identified a third person
26 for deposition. There is no need for a Rule 30(b)(6) deposition unless its purpose is
27 to greatly expand the number of deponents or increase the cost of this litigation, or
28 both. Moreover, given that Defendant's proposed Rule 30(b)(6) would likely require

1 multiple witnesses, it would be infeasible to prepare witnesses and conduct
2 depositions on the expedited discovery timeline here. Move requests that the Court
3 issue a protective order eliminating the Rule 30(b)(6) deposition notice.

4 ***Defendants' Response***

5 Move's objections to Defendants' draft Rule 30(b)(6) deposition notice are
6 premature and, in any event, should be overruled as the topics set forth in that notice
7 are consistent with the topics covered in the various written discovery requests above
8 and are all tied to the issues of Plaintiffs' Motion for a Preliminary Injunction.
9 Defendants incorporate their responses to those various requests herein as and for
10 their response to those objections. By providing a 30(b)(6) designee on specific
11 topics, Defendants will be able to quickly and effectively get to the heart of the issues
12 raised by Plaintiffs' Motion. With respect to Plaintiffs' claim that it is infeasible to
13 prepare witnesses and conduct depositions on the timeline proposed, Defendants
14 note that it is Plaintiffs that have claimed the urgency requiring such an expedited
15 timeline and they should be required to provide a witness to testify regarding these
16 topics. In any event, Defendants submit that this issue is premature as Defendants
17 have reserved the right to amend their 30(b)(6) notice based on the other written
18 discovery responses and documents produced by Plaintiff. Defendants are willing
19 to serve such a notice promptly on August 20, 2024 by noon PT and then meet and
20 confer with Defendants that afternoon regarding the scope of the demanded Rule
21 30(b)(6) deposition and present any objections to the Court that exist at that time
22 promptly.

23 Finally, Defendants do not agree to limit the duration of this deposition
24 beyond the permitted 7 hours, given the agreement to limit the other two deposition
25 times and the importance of this deposition. Of course, Defendants will attempt to
26 take this deposition efficiently and in a manner that minimizes any inconvenience to
27 Plaintiffs.
28

III. CONCLUSIONS

A. Plaintiffs' Conclusion

Defendants lack of diligence, at best, and intentional delay, at worst, warrants either reconsidering allowing Defendants to conduct expedited discovery, or significantly narrowing the scope and volume of their requests.

If the Court continues to permit discovery, Move would agree to provide information responsive to the following: one question in Interrogatory No. 1; one question in Interrogatory No. 2; one question in Interrogatory No. 4; two questions in Interrogatory No. 5; one question in Interrogatory No. 6; Interrogatory No. 7; and two questions in Interrogatory No. 9. Move would further agree to produce documents in response to Document Production No. 1 and Document Production No. 10; and, schedules permitting, make Mickey Neuberger and Howard Pence available for depositions for two hours each of time on the record for examination on topics strictly limited to the issues raised in the Preliminary Injunction Motion. Given the narrow preliminary injunction Move is seeking, the evidence that is already in the record, Defendants' delay in serving their discovery requests until Sunday August 4 (the day before this document was due to the Court), and the fact that much of the information Defendants seek is already in Defendants' possession, no additional discovery should be permitted.

Defendants' Conclusion

Move has sought at every turn to hide the facts, and has taken positions that are at odds with those of a bona fide trade secrets plaintiff. It waited a month to bring suit. It waited another two weeks to seek an injunction. And, perhaps most remarkably, it is declining the Court's invitation to take discovery in support of its own injunctive request. Move knows that as each new piece of information comes to light, its scheme to use the legal system to score PR points against a rival will come into sharper focus. When it comes to the truth, Move dare not look.

1 In the same vein, Move seeks to avoid, or unduly narrow, the discovery that
 2 Defendants seek, asking that the Court reconsider its prior ruling. There is no basis.
 3 Defendants have acted on a compressed timeline, Move has made its objections
 4 herein, and discovery should proceed. Nor is there any basis to further narrow the
 5 limited discovery sought. That discovery is focused on issues implicated by Move's
 6 motion for injunctive relief, such as whether the information is truly secret, what
 7 steps Move took to protect it, who accessed it, and whether there is any basis for
 8 Move's claim of harm, including whether Move has any basis to believe that CoStar
 9 or Mr. Kaminsky are using its secrets against it. That Move is asking the Court to
 10 permit Move to avoid discovery on these topics—indisputably at issue—underscores
 11 that its request for injunctive relief is without merit. Move's effort to avoid the
 12 consequences of its own motion should be rejected.

13 Defendants look forward to taking narrow discovery on an expedited basis (on
 14 the schedule it has proposed) and holding Move to account. Defendants are
 15 submitting that schedule as a proposed order and providing it as Exhibit M to the
 16 Declaration of Matthew W. Walch submitted separately.

17
 18
 19 Dated: August 5, 2024

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